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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/995,243	11/26/2001	Patrick Mitchell Howard Lumley	SIM.07	1376

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EXAMINER

DEL SOLE, JOSEPH S

ART UNIT	PAPER NUMBER
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1722

DATE MAILED: 06/26/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/995,243

Applicant(s)

LUMLEY ET AL.

Examiner

Joseph S. Del Sole

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 11-17 is/are withdrawn from consideration.
- 5) ☐ Claim(s) 18-20 is/are allowed.
- 6) ☐ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) 21 is/are objected to.
- 8) ☐ Claim(s) 1-21 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 26 November 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 112
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-10 and 18-21, drawn to a pastillation machine, classified in class 425, subclass 008.
 - II. Claims 11-17, drawn to a diffuser, classified in class 428, subclass 544.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions I and II are related as combination and subcombination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP § 806.05(c)). In the instant case, the combination as claimed does not require the particulars of the subcombination as claimed because the diffuser of the combination can be fixedly attached to the distribution bar without using a specific centering device. The subcombination has separate utility such as a distribution device for a slotted film extrusion apparatus.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Ms. Rosemary Kellogg on 6/12/03 a provisional election was made without traverse to prosecute the invention of Group 1, claims 1-10 and 18-21. Affirmation of this election must be made by applicant in

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replying to this Office action. Claims 11-17 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Information Disclosure Statement

6. The information disclosure statement filed 11/26/01 complies with the provisions of 37 CFR 1.97, 1.98 and MPEP 609. It has been placed in the application file and the information referred to therein has been considered as to its merits.

Drawings

7. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: **a)** "22" is not shown in Figure 1 as discussed at line 32 of page 4 and **b)** "24" is not shown in Figure 3 as discussed at line 5 of page 7. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

Specification

8. The disclosure is objected to because of the following informalities: **a)** at page 8, line 19 "Referring to Figures 5," should be changed to --Referring to Figures 5, 6 and

7,-- in order to be grammatically correct and because the discussion following this phrase in the specification describes all three drawings.

Appropriate correction is required.

Claim Objections

9. Claim 21 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 21 merely claims the material molded. Since this does not further limit the structure of the claimed apparatus, the claim is not further limiting.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

11. Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Froeschke (DE 3530508A1).

Froeschke teaches a pastillation machine (Fig 3) having a bar (Fig 3, #3 and #25) having a bore extending therethrough; a series of holes located on an inlet surface of the bar (Fig 3, #22'); a series of slots (Fig 2a and Fig 3) located on an outlet surface of the bar; a diffuser located in the bore (Fig 3, #36) of the bar, the diffuser being spaced between the inlet surface and the outlet surface; and the series of holes is

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aligned with flowable substance outlets of the pastillation machine (Fig 3, #20); the bar is two separate parts that are coupled together (Fig 3, #3 and #25); the bar is comprised of a distribution bar (Fig 3, #3) and a feeder bar (Fig 3, #25), the distribution bar has a bore extending therethrough and being nested in the feeder bar and secured thereto; the feeder bar is softer material than the distribution bar (Fig 3, the portion of the feeder bar #32 is soft elastic material for reducing abrasion); and the bore is rectangular in cross-section.

Claim Rejections - 35 USC § 103

12. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

13. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

14. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

15. Claims 5 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froeschke (3530508A1) in view of Lewis et al (6,412,308).

Froeschke teaches the apparatus as discussed above.

Froeschke fails to teach the feeder bar, including the outlet surface, being ductile iron.

Lewis et al teach the use of ductile iron as the material of a mold body for the purpose of taking advantage of advantageous properties it provides, such as decreased thermal conductivity, resistance to cracking, desirable wear and other mechanical properties, ease of machinability and desirable economic feasibility (col 3, lines 19-42).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Froeschke by using as the material of the feeder bar ductile iron because, as taught by Lewis et al, ductile iron lends many advantageous properties.

16. Claims 6 and 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Froeschke (DE3530508A1) in view of Lewis et al (6,412,308) and further in view of Gilbert De Cauwer et al (5,643,524).

Froeschke and Lewis et al teach the apparatus as discussed above.

Froeschke fails to teach the distribution bar, including the inlet surface, being steel and specifically 316 stainless steel.

Gilbert De Cauwer et al teach the use of 316 stainless steel as the material of a mold body undergoing abrasive stresses for the purpose of taking advantage of advantageous properties it provides, such as being hard and abrasion resistant (col 6, lines 5-17).

It would have been obvious to one having ordinary skill in the art at the time of the Applicant's invention to have modified the invention of Froeschke by using as the material of the distribution bar 316 stainless steel because, as taught by Gilbert De Cauwer et al, 316 stainless steel is hard and abrasion resistant.

Allowable Subject Matter

17. Claims 18-20 are allowed.

18. The following is an examiner's statement of reasons for allowance: the prior art of record fails to teach or suggest a pastillation machine having a second rotatably cylinder surrounding a first cylinder; a cavity formed in the first cylinder in communication with a source of a flowable substance; a slot formed in the outer surface of the first cylinder; fluid outlets located in the slot and being in communication with the cavity of the first cylinder; a distribution bar sandwiched between the first and second cylinders and having an inlet surface with a series of holes, an outlet surface with a series of slots and a bore extending therethrough; and a diffuser located between the inlet and outlet surfaces and extending axially through the bore of the distribution bar.

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Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

References of Interest

19. Schwager (5,286,181), Le Dall et al (5,694,834), Harreither (5,382,145), Schwager (5,395,560), Schwager (5,492,463), Schmiedeke (4,029,459), Harreither (5,332,378), Schwager (5,723,153) and Froeschke (5,013,498) are cited of interest to show the state of the art.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph S. Del Sole whose telephone number is (703) 308-6295. The examiner can normally be reached on Monday through Friday from 8:30 A.M. to 5:00 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ms. Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is assigned is (703) 872-9310 for non-after finals and (703) 872-9311 for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Joseph S Del Sole
J.S.D.
June 19, 2003

[Signature]
ROBERT DAVIS
PRIMARY EXAMINER
GROUP 1300 1722

6/24/03